

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Carla Schaefer et al.	)	Examiner:	Dolores R. Collins
)		
Serial No:	10/790,345	)	Art Unit:	3711
)		
Filed:	March 1, 2004	)	Confirmation No:	9394
)		
Title:	Lottery Ticket Play Action	)	Customer No:	22827
	Game)		
		)	Deposit Acct No:	04-1403

INTERVIEW SUMMARY PURSUANT TO 37 C.F.R. § 1.133

Commissioner For Patents
U.S. Patent and Trademark Office
Post Office Box 1450
Alexandria, VA 22313-1450

Honorable Commissioner:

The most recent Office Action dated June 27, 2008 includes a final rejection of all currently pending claims. Reconsideration is respectfully requested in light of a concurrently filed RCE submission and a telephone interview conducted on December 23, 2008 between Jennifer Ulsh (Reg. No. 52,312) and Examiner Dolores Collins. The RCE submission is provided as a separate amendment and response. In accordance with 37 C.F.R. §1.133(b), this paper sets forth a summary of the December 23, 2008 interview and includes a complete written statement of the reasons presented at the interview as warranting favorable action.

INTERVIEW SUMMARY

The interview began by providing Examiner Collins with a brief overview of the subject lottery ticket game, with a focus on the features that distinguish it from the two primary references cited in the recent Office Action: U.S. Patent No. 5,193,815 (Pollard) and 4,756,533 (Hopkins et al.).

With regards to the subject application, the features set forth in presently pending claim 1 were briefly described with reference to Figure 2. As shown in such figure, the lottery ticket game has a first play area 6 (on the right-hand side of the ticket) containing first jig-saw type puzzle pieces 14, each of which has an irregular shape for mating with another irregular shaped mating surface. Such irregular shapes are specifically defined by respective cavities 20 and projections 18. A second play area 24 (on the left-hand side of the ticket) includes multiple play regions (Puzzles A, B, C and D, respectively). Each of the play regions in the second play area 26 has a different pattern made up of differently shaped second jig-saw type puzzle pieces 28. At least two of the second jig-saw type puzzle pieces in a second play region are matched with first jig-saw type puzzle pieces in the first play area to result in a prize being won.

In contrast to the lottery ticket of claim 1, Pollard was identified as a bingo game which requires no physical mating of puzzle pieces, only random matching of letters and numbers on a grid-like matrix. There are no irregular-shaped puzzle pieces that are visually matched by mating of the irregular shapes (i.e., the respective cavities and projections in various puzzle pieces). This is a specific structural difference between the Pollard invention and the lottery ticket set forth in claim 1 of the subject application.

In addition to the above structural differences, significant functional differences between Pollard's bingo game and the puzzle game of claim 1's lottery ticket were briefly discussed. Claim 1 requires that "at least two second jig-saw type puzzle pieces in a second play region are matched with first jig-saw type puzzle pieces in the first play area" to win a prize. The function of this lottery ticket is thus to use visual identification to mate and match puzzle pieces together. This is functionally different than a bingo

game, in which the object is to match random indicia identified by the caller's card (i.e., first play area 11) in order to form a predetermined combination of exposed locations, such as five in a row or four corners.

The game system disclosed in Hopkins et al. was also described as readily distinguished from the lottery ticket of claim 1. Claim 1 is directed to a (single) lottery ticket, not a lottery ticket system with multiple components as disclosed in Hopkins et al. Claim 1 does not require that game pieces be physically removed from a first play card and placed on a separate game board as required by Hopkins et al. Further distinguishing features include Hopkins et al.'s lack of: (i) first jig-saw type puzzle pieces covered by a removable scratch-off layer; and (ii) indicia on the puzzle pieces as part of a jig-saw puzzle piece identification system as set forth in claim 1. Game board 10 of Hopkins et al. is equated with the first play area set forth in claim 1, but these pieces are not covered with a scratch-off layer. The puzzle pieces 14 provided on game card 18 are also not covered by a scratch-off layer. Hopkins et al. do not disclose or suggest any indicia on their puzzle pieces, for it would take away from the stated object of providing a challenge and further levels of complication for a user trying to complete the puzzle games using repeated tries and a combination of both luck and skill.

After identifying the basic differences between the subject lottery ticket and the Pollard and Hopkins et al. references, the interview addressed how best to capture the patentably distinguishing features in the claims, especially in light of the cited case - *In re Gulack*, 217 U.S.P.Q. 401 (CAFC 1983). Examiner Collins indicated that with an apparatus claim as set forth in claim 1, more patentable weight would be given to the physical and structural features as opposed to language that described the functionality or method of playing the game. In addition, she indicated that features set forth in an independent claim would be given more consideration than those in any dependent claims.

In light of Examiner Collins' explanation, certain claim features were identified as helping to more particularly describe the structural differences between the lottery ticket of claim 1 and the presently cited references. In particular, the irregular-shaped puzzle

pieces in the respective first and second play areas could be more particularly described as having at least one projection or cavity which is then mated with a complementary projection or cavity in another puzzle piece to form a puzzle pattern defined in a second play region. In addition, as set forth in prior dependent claim 14, the plurality of second play regions can have different patterns comprised of different jig-saw type puzzle pieces (see, e.g., Puzzle A's triangular pattern, Puzzle B's circular pattern, Puzzle C's square pattern, and Puzzle D's diamond pattern as shown in Figure 2 of the subject application).

It was agreed that the best approach would be to incorporate the above structural limitations into independent claim 1 by way of an amendment and response filed as a submission with requisite fees as part of a "Request for Continued Examination" (RCE). It was agreed that the additional limitations described above would be considered as structural limitations as opposed to design features, thus warranting patentable weight in the subject claims. In light of the proposed amendments, Examiner Collins indicated that she may need to conduct additional searching to ensure claim patentability.

Respectfully submitted,
DORITY & MANNING, P.A.

12/29/2008
Date

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